

REMARKS/ARGUMENTS

1. Summary of the Office Action

Claims 1-10 and 12-25 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 6,757,255 (hereinafter Aoki) in view of U.S. Patent No. 6,219,713 (hereinafter Ruutu).

2. Response to 35 U.S.C. § 103 Rejections

Reconsideration of this application, as amended, is respectfully requested. The amended claims are supported by the specification as originally filed. For example, the amended claims find support in page 15, paragraph 38 of the specification. Therefore, no new subject matter has been introduced.

In rejecting claims 1-10 and 12-25, the Office Action relies on the combination of Aoki and Ruutu. However, the combination of these references fails to teach or suggest features of the present claims and therefore, the present claims are allowable over these references.

Aoki teaches a TCP communication performance measuring device that obtains an effective bandwidth representing performance in TCP communication, wherein the performance indexes are obtained based on TCP communications variable-length packets transmitted and received, and any one of an average congestion window size, a packet discard rate and a packet discard event rate (Aoki, Abstract). However, Aoki does not teach the methods and systems recited in the present claims, which include the feature of “*increasing* an initial congestion window size for the traffic stream *up to* an advertised window size of a client receiving the traffic stream” (Claim 1; emphasis added). Indeed, Aoki is only concerned with calculating an effective bandwidth based on maximum congestion window size (Aoki, Col.11, lines 29-33). It will be noted that the maximum congestion window size is not equivalent to an advertised window size of a client receiving the traffic stream. Indeed, the Office Action concedes that Aoki fails to teach this feature. Therefore, claim 1 is patentable over Aoki.

To cure the deficiencies of Aoki, the Office Action cited Ruutu. Ruutu teaches a method and apparatus for adjusting a TCP sliding window using information regarding network conditions. In particular, the “source 330 is supposed to adjust its sliding window according to this advertisement, unless the congestion window 360 maintained by the source 330 is smaller” (Ruutu, Col.4, lines 63-65). Indeed, Ruutu claims that the “size of the sliding window comprises the minimum of the window advertisement and a congestion window” (Ruutu, Claim 2). Stated differently, Ruutu suggests that the source does not increase the congestion window to the size of the advertisement window. Instead, if the congestion window is smaller than the size of the advertisement window, the source will use the congestion window. Clearly, this contradicts with the methods and systems of the present claims wherein the congestion window is increased to the size of the advertisement window. Consequently, Aoki and Ruutu, even when considered in combination with one another, fail to anticipate claim 1. Hence, claim 1 and its dependent claims are patentable over these references.

In view of the remarks above, it is also submitted that Aoki and Ruutu fail to suggest the features recited in claims 9 and 20. Accordingly, claims 9 and 20 and their dependent claims are also allowable for at least the reasons stated above.

3. **Conclusion**

Having tendered the above remarks and amended the claims as indicated herein, the Applicants respectfully submit that all rejections have been addressed and that the claims are now in a condition for allowance, which is earnestly solicited.

If there are any additional charges, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of the present application, the Examiner is invited to contact Jaina Chua at (408) 947-8200.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP



Chze Koon Chua
Reg. No. 53,831

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12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1026
(408) 947-8200